



Oregon

Kate Brown, Governor

Oregon Transportation Commission

Office of the Director, MS 11

355 Capitol St NE

Salem, OR 97301-3871

March 14, 2019

Mr. Greg Smith
Malheur County Development Corporation
522 SW Fourth Street
Ontario, OR 97914

Dear Mr. Greg Smith:

I am sending you this letter and attached matrix regarding next steps for your project and to outline what initial additional information is necessary to allow for the Oregon Transportation Commission (OTC) to make an informed decision on the intermodal dedicated projects. This is an initial request for information; the OTC reserves the right to come back with additional requests for information based on your answers to these questions and/or future Commission deliberations on this matter.

Unresolved Issues

At the conclusion of the February 21, 2019 OTC meeting the commission directed ODOT staff to generate a matrix of additional information needed to inform the Commission's deliberations about potential intermodal projects. The Commission's position at the conclusion of the meeting on February 21st was that there were too many outstanding questions and too much risk to approve any project based upon the available information. This said, the Commission directed ODOT to identify additional information needed on the most critical items. Those key items can be summarized under three broad areas that are detailed in the attached matrix:

- Terminal operator agreements
- Railroad service and rates
- Rail car availability/supply

To better clarify concerns around each of these areas, there are sub-items on the following sheets of the matrix for each of the project sponsors. In several instances, we are seeking documentation from the applicable rail entity once certain milestones are met to demonstrate continued progress in the flow chart towards eventual service.

Next Steps

To promote transparency in the process, the matrix includes action items for all three of the project sponsors, with many items being repeated for all project sponsors. We recognize that crafting a memorandum in response to these questions and the appropriate coordination with the railroads/terminal operators/ocean carriers will take time and, therefore, the Commission asks that each project sponsor come up with a reasonable time frame for completing these tasks and notify ODOT of this estimate by **March 20, 2019**.

Similar to the process for submission of the project plans in 2018, we will endeavor to set a common deadline for all three projects and, at a minimum, a common deadline for the two project plans in the Mid-Willamette Valley. After the updated information is submitted, ODOT staff will work with the OTC to formally bring this updated information before the Commission.

Reimbursement Eligibility

One of the questions raised during the February OTC meeting was whether or not additional work performed as a result of this matrix would be reimbursable. ODOT staff have consulted with the OTC and ODOT executive leadership and the decision is to not provide any additional financial resources to the project sponsors to complete the responses to the attached questions. ODOT believes that the information being requested in the matrix should be based upon the work you have already completed and been compensated for. ODOT does not believe that any project sponsor will need to invest any substantial financial resources for additional design, data analysis, or financial analysis to address these questions contained in the attached matrix. Instead we believe it is incumbent upon each project sponsor to work with the appropriate rail entity and potential facility operator to address these questions.

Post-Selection Process

Should your project be selected for funding, the subsequent phase in the process would be to enter into a grant agreement with ODOT. This agreement would be similar to previous Connect Oregon grant agreements in terms of its structure, however given the size of this project there would be very clear milestones that must be met to unlock additional funding. Taking this incremental approach would be consistent with what was discussed at the February OTC meeting and puts the onus on the selected project sponsor(s) to be making documented progress to prevent putting the remaining project funds in jeopardy.

Sincerely,

A handwritten signature in black ink, appearing to read "Tammy Baney", with a stylized flourish at the end.

Tammy Baney
Chair, Oregon Transportation Commission